



Shapiro Arato Bach LLP

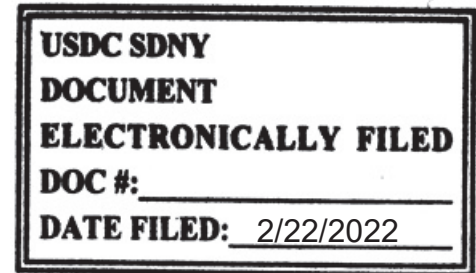
500 Fifth Avenue, 40th Floor New York, NY 10110  
phone: 212-257-4880 | fax: 212-202-6417  
[www.shapiroarato.com](http://www.shapiroarato.com)

Jonathan P. Bach  
[jbach@shapiroarato.com](mailto:jbach@shapiroarato.com)  
Direct: 212-257-4897

February 18, 2022

VIA ECF

The Honorable Robert W. Lehrburger  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007



Re: *Hedgeye Risk Management, LLC v. Dale*, No. 21-cv-3687 (ALC) (RWL)

Dear Judge Lehrburger:

We write to request a finding of contempt and an extension of the gag order entered at the conclusion of the conference held on February 14. Despite judicial intervention and clear direction from the Court, Hedgeye's CEO Keith McCullough has persisted in the same pattern of social media abuse that prompted Defendants to seek immediate relief.

As the Court may recall, at the conference and in the papers we submitted in advance, we called specific attention to Hedgeye's Twitter campaign to interfere with Dale and 42 Macro's business relationship with Real Vision Group and its CEO Raoul Pal. (Dkt. 168 at 2-3 & Exs. 17-18; Dkt. 172 & Ex. C). Counsel were urged to meet and confer about appropriate guidelines for any public utterances going forward with the understanding that all Twitter warfare would cease until a resolution could be reached.

Nevertheless, on Wednesday, February 16, McCullough continued to publicly taunt Real Vision Group on Twitter, based on its decision to publish content from Dale. He tweeted that he had heard nothing but "[c]rickets from RV" in response to Hedgeye's earlier posted demands. (Ex. 1). On Thursday, McCullough tweeted: "I think @RealVision is at real crossroads here on their content[.] Is it going to seek principles, or clicks and revenues? Not my question to answer." (Ex. 2). This morning, McCullough tweeted: "Any time a media company chases clicks over maintaining a #community that has integrity, I want to compete with that." (Ex. 3). And shortly thereafter, he tweeted that Real Vision and Hedgeye were "[t]wo companies that seem to be headed in very different directions for The People." (Ex. 4). McCullough has also retweeted a number of other messages disparaging Real Vision.

On the basis of this clear violation of simple ground rules, defendants respectfully request that the Court find Hedgeye in contempt and extend the gag order by another week, to March 1, as a prophylactic measure. In addition, we submit that it is appropriate to grant the relief

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requested by Defendants that is of the most immediate necessity<sup>1</sup>—namely, an order prohibiting Hedgeye from disseminating whatever information it supposedly has recovered from Darius Dale's work computer and any materials in Dale's personnel file. As we have previously explained, Hedgeye has previously made several threats of the most outrageous nature related to Dale's personal information, and Hedgeye's latest contemptuous behavior demonstrates that it cannot be relied upon to act in good faith.

Respectfully submitted,

Jonathan P. Bach

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The request for a finding of contempt is denied. The posts do not address the litigation. The request for an extension of the limited "gag order" is denied.

**SO ORDERED:**

2/22/2022



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HON. ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> At Tuesday's conference, Hedgeye consented to one aspect of the relief Defendants sought: an order prohibiting Hedgeye from disclosing any information obtained from Defendants in discovery, regardless of confidentiality designation, except for the purpose of this litigation.